

Remarks

There are 13 claims pending in the present case. Claims 1 and 9 have been amended and Claim 10 cancelled. Applicants acknowledge the Examiner's allowance of claim 2. Support for the amendments may be found in paragraphs [0011] and [0012] and cancelled claim 10.

The Examiner rejected Claim 9 under 35 U.S.C. §102(b) as being anticipated by Zhong (US6,184,260). Applicants have reviewed Zhong and amended Claim 9 to include the description of the SiH containing alkyl silsesquioxane resin from Claim 10 (which was then cancelled) so that the SiH containing alkyl silsesquioxane resin must contain siloxy units of the formula $(R_2HSiO_{1/2})_x(R''SiO_{3/2})_y$. Zhong describes the SiH group to be present only on D units (i.e. H_2SiO) or T units (i.e. $HSiO_{3/2}$) whereas the present amendment requires the presence of an SiH group on M units (i.e. $R_2HSiO_{1/2}$). Therefore, the applicants request that the rejection under 35 U.S.C. §102(b) be withdrawn and Claim 9 allowed to issue.

The Examiner also rejected Claims 1, 3, 4, 6-8 and 11-14 under 35 U.S.C. §103(a) as being unpatentable over Thomas (US3609178). The Examiner also rejected Claims 1 and 3-10 under 35 U.S.C. §103(a) as being unpatentable over Berthiaume et al in view of Yeoh.

The object of Thomas is to make a room temperature vulcanizable ketoxime siloxane composition which has improved adhesion to metal and improved solvent resistance. Thomas also describes that the organopolysiloxane polymers are a resinous type which must have at least 30 mol percent siloxane units selected from monoorganopolysiloxane units or SiO_2 units and the remaining siloxane units are selected from diorganopolysiloxane units and triorganopolysiloxane units (column 2, lines 4-11). Thomas then gives a list of the types of organic groups that could be used in the siloxy units and also gives illustrations of the possible monoorganopolysiloxanes, diorganopolysiloxanes, and triorganopolysiloxanes. The present invention provides a silsesquioxane resin wax with many useful properties including but not limited to improving the durability and substantivity of cosmetics, they improve compatability and also can act as texture and rheology modifiers. The present invention requires two distinct types of hydrocarbon groups

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be incorporated in the silsesquioxane resin. The first hydrocarbon has 1 to 8 carbon atoms (R'') and must be on the monoorganopolysiloxane units and the second hydrocarbon groups (R') has 18 to 40 carbon atoms and must be on the triorganopolysiloxane units. Further, Applicants have amended Claim 1 to require that the R' group chosen and the ratio of T to M units (y/x) must form a silsesquioxane resin wax having a melting point of greater than 30°C. Although Thomas describes hydrocarbon types of groups generally, there is no direction as to which groups to pick nor any disclosure about the silsesquioxane resin wax having a melting point of greater than 30°C. A person skilled in the art would not find Applicants' invention obvious after considering Thomas' disclosure, particularly with the amendments made to Claim 1. Therefore, the applicants request that the Examiner reconsider her rejection under 35 U.S.C. §103(a) of Claims 1, 3, 4, 6-8 and 11-14 based on Thomas.

Further, Applicants also request the Examiner reconsider her rejection under 35 U.S.C. §103(a) of Claims 1 and 3-10 based on Berthiaume et al in view of Yeoh. Berthiaume relates to low viscosity (liquid) MQ resins so even though Berthiaume describes using a large hydrocarbon group for the M group, the resulting resin is a liquid. The Examiner stated that "Berthiaume et al differs from that claimed in that it does not teach a silsesquioxane, or MT, resin." The Examiner then cites Yeoh, for teaching siloxane resins used in cosmetic compositions. Further, the Examiner stated "column 14, lines 50 and 51 indicate that MQ and MT silicone resins can be used in the alternative." Although Applicants don't necessarily agree with the Examiner's statement, Applicants believe what is important is that nowhere in Yeoh is there a description of the types of hydrocarbon groups that must be present on the T groups of Applicants' invention (column 14, lines 38-40 specify only vinyl, phenyl, amino, hydroxyl, etc). Further neither Berthiaume or Yeoh have any discussion that the silsesquioxane resin must have a melting point greater than 30°C. A person skilled in the art would not look to Berthiaume or Yeoh separately or together to teach Applicants invention nor would Applicants' invention be obvious based on these references. Therefore, the applicants request that the Examiner reconsider her rejection under 35 U.S.C. §103(a) of Claims 1 and 3-10 based on Berthiaume et al in view of Yeoh.

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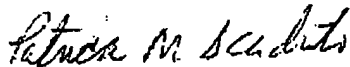
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For all the reasons described above, the applicants request that the rejections under 35 U.S.C. §102(a) and 35 U.S.C. §103(a) be withdrawn and Claims 1 and 3-14 be allowed to issue in addition to Claim 2 which the Examiner has previously allowed.

Applicants believe in good faith that only a one month extension of time is needed for this reply, however the applicants hereby petition for any necessary extensions of time. You are authorized to charge deposit account 04-1520 for any fees necessary to maintain the pendency of this application. You are authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to deposit account 04-1520.

Respectfully Submitted,

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